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Question of Western Sahara

Report of the Secretary-General

Introduction

1. On 10 December 1997, the General Assembly adopted, without a vote, resolution 52/75 on the question of Western Sahara. The Secretary-General, in close cooperation with the current Chairman of the Organization of African Unity (OAU), has continued to exercise his good offices with the parties concerned. The present report, which covers the period from 30 September 1997 to 1 October 1998, is submitted in pursuance of paragraph 9 of that resolution.

Security Council resolution 1133 (1997)

2. On 20 October 1997, the Security Council adopted resolution 1133 (1997), by which it decided to extend the mandate of the United Nations Mission for the Referendum in Western Sahara (MINURSO) until 20 April 1998 in order for MINURSO to proceed with its identification tasks and to increase its size in accordance with the Secretary-General's recommendations. The Council requested the Secretary-General to begin the identification of eligible voters in accordance with the settlement plan and the agreements reached between the parties with the aim of finishing it by 31 May 1998; to submit to the Council, no later than 15 November 1997, a comprehensive report, including a detailed plan, a timetable and financial implications, for the holding of the referendum; and finally to report to the Council every 60 days on the progress made in the implementation of the settlement plan and the agreements reached between the parties, and to keep the Council regularly informed of all significant developments.

Secretary-General's report of 13 November 1997

3. Pursuant to Security Council resolution 1133 (1997) and as intended in his report of 24 September (S/1997/742), the Secretary-General, on 13 November 1997, submitted to the Council a comprehensive report (S/1997/882), including a detailed plan, a timetable and financial implications, for the holding of the referendum for the self-determination of the people of Western Sahara in accordance with the settlement plan (see S/21360 and S/22464 and Corr.1) and the agreements reached between the parties for its implementation. According to that timetable, the identification of applicants to the referendum was expected to be completed by 31 May 1998, the transitional period was to start on 7 June 1998 (D-Day) and the referendum was to be held on 7 December 1998.

4. The Secretary-General's report of 13 November, as well as his letter of 13 December to the President of the Security Council (S/1997/974), also provided an account of developments in the implementation of various provisions of the settlement plan, including the preparatory work

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undertaken by MINURSO to ensure the resumption of the identification operation by 1 December 1997. Extensive discussions were held by the Acting Special Representative with the parties, both of whom reiterated their commitment to resuming identification expeditiously and to proceeding in accordance with the practical measures agreed to during the fourth round of direct talks. During those discussions, the parties were informed of MINURSO's plan to open 12 centres, 9 of which would operate concurrently. The list of sheikhs eligible to testify was updated, and arrangements were made for selecting and agreeing in advance to a list of alternates. With respect to the convocation lists, both parties were granted a week to check the applicants' current addresses and a maximum of three weeks to ensure that people were notified, wherever they might be. Identification files stored in the United Nations Office at Geneva were returned to Laayoune in late October 1997, requirements for the initial reopening of four identification centres were assessed, and arrangements were made with the parties to have the centres restored to full working order. Following those preparatory activities, MINURSO resumed the identification operation on 3 December 1997, as planned. By his letter of 13 December 1997 (S/1997/974), the Secretary-General informed the Security Council that on 24 November 1997, the newly appointed Civilian Police Commissioner, Chief Superintendent Peter Miller (Canada) had arrived in Laayoune and assumed his duties.

5. On 26 December 1997 (see S/1997/1023), the Secretary-General informed the Security Council of his intention to appoint Mr. Charles F. Dunbar (United States of America) as his Special Representative for Western Sahara, to which the Council agreed in a letter from its President addressed to the Secretary-General on 30 December 1997 (S/1997/1024).

Secretary-General's report of 15 January 1998

6. In his report of 15 January 1998 (S/1998/35), the Secretary-General indicated that during identification sessions at Laayoune for convoked members of tribal groupings H41, H61 and J51/52, and at camps Smara and Dakhla in the Tindouf area for members of tribal groups J51/52, 3,927 non-convoked individuals from those groupings had presented themselves at Laayoune and 495 in the Tindouf area; and in succeeding days 8,613 individuals, mostly from grouping H61, had also come forward at Laayoune. The Frente Popular para la Liberación de Saguía el-Hamra y de Río de Oro (Frente POLISARIO) protested that Morocco was in breach of the Houston agreements with respect to the sponsorship of non-convoked individuals. In consultation with his Personal Envoy, Mr. James A. Baker III, former Secretary of State of the United States of America, and in conformity with the Houston agreements, the Secretary-General decided to instruct MINURSO to proceed as soon as possible with the identification of those unconvoked individuals who had presented themselves on the days of convocation of their respective tribal groups. He also decided that, for applicants from "non-contested" tribes resident in northern Morocco, identification sessions initially scheduled to take place at Tan Tan and Goulemine in southern Morocco should be held at two northern locations where the number of resident applicants exceeded 10,000, that is, at El Kelaa des Sraghna and Sidi Kacem.

Security Council resolution 1148 (1998)

7. In its resolution 1148 (1998) of 26 January 1998, the Security Council welcomed the appointment of the Special Representative of the Secretary-General for Western Sahara; approved the deployment of the engineering unit required for demining and of the additional administrative staff required, as proposed in the Secretary-General's report of 13 November 1997 (see S/1997/882, annex II); expressed its intention to consider positively the request for the remaining additional military and civilian police assets for MINURSO, as proposed in the same report (see S/1997/882, annex II), as soon as the Secretary-General reported that the identification had reached a stage which made the deployment of those assets essential; and finally called upon both parties to cooperate further with the Identification Commission so that the identification process could be completed in a timely fashion in accordance with the settlement plan and the agreements reached between the parties for its implementation.

8. In a letter to the President of the Security Council dated 19 February 1998 (S/1998/142), the Secretary-General informed the Council that his newly-appointed Special Representative had arrived in the mission area on 9 February 1998. The Special Representative had been received at Rabat by His Majesty the King of Morocco and senior officials of the Government of Morocco, and in the Tindouf area by the Secretary-General and other leaders of the Frente POLISARIO. He had also met with the Algerian authorities at Algiers, and intended to proceed to Nouakchott to meet with the Mauritanian authorities.

9. Subsequently, interruptions in the identification process, due to the illness of sheikhs, sandstorms, disputes between the parties and a change in procedures at the Laayoune airport for arriving and departing POLISARIO delegations, which was followed by a reciprocal change at the Tindouf airport for Moroccan delegations, led to a

perceptible increase in tension between the two parties. Some reservations were expressed by the parties regarding the Secretary-General's decisions contained in his report of 15 January 1998 (S/1998/35), concerning the centres in Morocco and the identification of tribal groups H41, H61 and J51/52.

Secretary-General's report of 13 April 1998

10. In his report of 13 April 1998 (S/1998/316), the Secretary-General indicated that although the total number of persons identified had reached 101,772, it was unlikely that the target date of 31 May 1998 for completing the identification process could be met. The delay had been due to the slowdown in identification activities in February and March 1998, and to the lack of progress in resolving the issue of the identification of applicants from the above three tribal groups. In addition, the climate of mutual distrust had not facilitated the task of MINURSO. Notwithstanding the above-mentioned delays, the Secretary-General considered it important that demining activities should start as soon as possible, as decided by the Security Council in its resolution 1148 (1998). In the Secretary-General's view, the months of May and June 1998 would be crucial for determining whether the identification of all applicants remaining to be convoked could be completed by the end of July 1998, and whether a solution could be found to the problem of those three groups. If, by the end of June 1998, sufficient progress had been made in the identification process and in the search for solutions to the contentious issue of those groups, he would submit in his next report to the Security Council recommendations for a revised timetable for the full implementation of the settlement plan, including preparatory measures for the establishment of the Referendum Commission. If, on the contrary, no solution had been found to the problem of the three "contested" groups, and if a large number of applicants from "non-contested" tribes also remained to be identified, the Secretary-General would recommend that the Security Council reconsider the viability of the mandate of MINURSO.

Security Council resolution 1163 (1998)

11. In its resolution 1163 (1998) of 17 April 1998, the Security Council decided to extend MINURSO's mandate until 20 July 1998 in order for MINURSO to proceed with its identification tasks with the aim of completing the process. It took note of the continuing deployment of the engineering units required for demining activities and of the administrative staff needed to support the deployment of military personnel, and expressed again its intention to consider positively the request for the remaining additional military and police assets for MINURSO as soon as the Secretary-General reported that the identification process had reached a stage which made such deployment essential. It also requested the Secretary-General to report to the Council every 30 days from the date of extension of MINURSO's mandate on the progress made, and to keep the Council regularly informed of all significant developments in the interim period.

12. Pursuant to the above-mentioned resolution, on 18 May 1998, the Secretary-General submitted an interim report (S/1998/404) to the Security Council, wherein he informed the Council that during the month of April 1998 the pace of the identification process had been much slower than expected, with only two and a half weeks of work accomplished. However, following discussions with the parties, they had agreed to the identification programme for the month of May 1998, which provided for a substantially higher rate of identification, with at times as many as 10 teams operating concurrently in the Territory, the Tindouf area, Morocco and Mauritania. The Moroccan Government undertook to provide additional support to the identification operation in the form of air transportation for its observers and sheikhs between Laayoune and locations in Morocco. However, Morocco refused to participate in the identification of 603 individuals belonging to tribal groups H41, H61 and J51/52, listed in the 1974 census and living in the Tindouf area and Mauritania, whom the Frente POLISARIO had asked MINURSO to include in the May 1998 identification programme on the grounds that according to the Houston agreements, those individuals were entitled to be convoked for identification.

13. Although as of 11 May 1998 a total of 111,244 persons had been identified, with fewer than 50,000 applicants from "non-contested" tribes remaining to be convoked, whose identification the Identification Commission expected to complete by the end of August 1998 with both parties' full cooperation, ways of dealing with the 65,000 applicants from groups H41, H61 and J51/52 had yet to be found. The Secretary-General informed the Council that his Special Representative was consulting with the two parties in the search for possible solutions to that outstanding issue by the end of June 1998. However, both sides had maintained their respective positions with regard to the three groups. He urged both sides to cooperate in the search for appropriate solutions with a view to enabling the successful and timely completion of the identification process.

14. The Secretary-General further informed the Council that in the meantime, progress had been made towards the deployment of the engineering unit and the start of its demining activities. UNHCR had also advanced its

preparatory work for the repatriation of Saharan refugees eligible to vote and their immediate families.

Secretary-General's report of 18 June 1998

15. On 18 June 1998, the Secretary-General submitted to the Security Council a further report requested in its resolution 1163 (1998), in which he informed the Council that during the month of May 1998 the rate of identification had increased substantially, with a total of 13,811 applicants identified during that month. As of 14 June 1998, a total of 127,472 persons had been identified. By that date, some 20,000 applicants from tribes other than H41, H61 and J51/52 remained to be convoked, and provided that both sides agreed to the July 1998 identification programme and continued to cooperate fully, the identification of those applicants should be completed by end of August 1998. The positions of the parties with regard to the identification of applicants from the three contested tribal groups remained a source of major concern, and both parties were urged to cooperate with the Special Representative in his search for an appropriate solution. Once the Special Representative had concluded his consultations, he would submit his assessment, along with recommendations on what measures could be taken by the United Nations to move the process forward.

16. In his report, the Secretary-General further informed the Council that the preparations for the deployment of the military engineering unit from Pakistan and a demining unit from Sweden had continued but had encountered some logistical difficulties involving the free and timely provision of accommodation sites for the units and clearance to enter Moroccan airspace and land at Laayoune. Clearance had finally been received to land at Laayoune, and MINURSO expected to resolve the accommodation problem with the Moroccan Government.

17. An additional problem with respect to the deployment of the military had involved the decision by the Moroccan authorities to store in depots of the Royal Armed Forces all weapons, ammunition and explosives of the MINURSO military units. The United Nations, after discussing the issue with Morocco's Permanent Representative to the United Nations, requested that pending the conclusion of the status of forces agreement, the Moroccan Government confirm, as soon as possible, that the Mission's formed military units might carry their weapons and keep custody of their ammunition at their own sites, in accordance with the established practice for all United Nations peacekeeping operations. Pending the resolution of that issue, the deployment of the military units was postponed. The Secretary-General also informed the Council that the status of forces agreements, which had already been submitted to Morocco, Algeria and Mauritania, had not yet been concluded, although the Moroccan authorities had indicated that they were reviewing it.

18. With respect to the Office of the United Nations High Commissioner for Refugees (UNHCR), the Secretary-General urged that its presence in the Territory be formalized without further delay so that it could undertake, in close cooperation with MINURSO, its work aimed at enhancing the confidence of refugees so that they could return under conditions of safety and dignity, as provided for in the settlement plan.

19. Expressing hope that in his next report he would be in a position to present a revised schedule for the start of the transitional period, the Secretary-General concluded by urging both parties to cooperate with his Special Representative so that an effective plan and a realistic schedule could be agreed for the final phase of the referendum.

Secretary-General's report of 10 July 1998

20. In his report submitted to the Security Council on 10 July 1998 (S/1998/634), the Secretary-General informed the Council that although the issue of how to proceed with the identification of members of tribal groupings H41, H61 and J51/52 was still impeding the completion of the identification process, the pace of the identification of other applicants had increased substantially during the months of June and July 1998. If that pace were sustained, MINURSO would be able to complete the identification by the end of August 1998.

21. With respect to UNHCR's work in repatriating Saharan refugees, the Secretary-General pointed out the importance of formalizing the agency's presence in the Territory, and in that respect he noted with satisfaction the Moroccan readiness to cooperate with UNHCR. Meanwhile, UNHCR was continuing with preregistration activities both in the refugee camps and in Mauritania.

22. Another development during the reporting period, the Secretary-General continued, had been Morocco's decision to limit the use of MINURSO aeroplanes to MINURSO personnel exclusively, particularly on flights between Laayoune and Tindouf. On 30 June 1998, his Special Representative had addressed a letter to the Moroccan Government stressing that visits by diplomats, staff of non-governmental organizations and journalists contributed to the conduct of the Mission's activities and to the transparency of the process. The Secretary-General pointed out in his report that such restrictions were not in line with

the practices in United Nations peacekeeping operations, and could have a negative public relations impact on the peace process.

23. The Secretary-General informed the Council that both the Pakistani and Swedish engineering units for the demining had arrived in the region, and had started preliminary work. However, they would not be fully operational until the arrival of their weapons and equipment. In that respect, consultations between MINURSO and the Moroccan authorities were expected. Regarding the draft status of forces agreements already submitted to Morocco, Algeria and Mauritania, he informed the Council that while Algeria and Mauritania had already responded, Morocco had yet to do so. He expressed hope that all status of forces agreements would be concluded without any further delay.

24. Concluding his report, the Secretary-General reminded the Council of his intention, expressed in his April 1998 report (S/1998/316), to submit recommendations for a revised timetable for the full implementation of the settlement plan if, by the end of June 1998, sufficient progress had been made in the identification process and in the search for a solution to the contentious issue of tribal groupings H41, H61 and J51/52. However, in view of the developments, he was asking his Personal Envoy to consider engaging the parties in seeking a solution to the problem of identifying those tribal groupings and also to other issues bearing upon the implementation of the settlement plan. The Personal Envoy's assessment would influence the Secretary-General's conclusions on the continued viability of MINURSO's mandate. Recommending that MINURSO's mandate be extended until 21 September 1998, the Secretary-General informed the Council that he intended to submit his next report by 15 September 1998.

Security Council resolution 1185 (1998)

25. In its resolution 1185 (1998) of 20 July 1998, the Security Council extended MINURSO's mandate until 21 September 1998 so that it could complete the identification process. It called for a prompt conclusion of the status of forces agreements, and for the lifting of any restrictions imposed on MINURSO aircraft or on passengers whose travel MINURSO determined to be of assistance to the fulfilment of its mandate. It noted with satisfaction the expressed readiness of the Moroccan Government to cooperate with UNHCR, and called upon both parties to cooperate with the United Nations, the Personal Envoy, the Special Representative and the Identification Commission in order to complete the identification of voters phase of the settlement plan and the agreements reached for its implementation. It requested the Secretary-General to continue reporting to the Council every 30 days from the date of extension of MINURSO's mandate.

Secretary-General's report of 18 August 1998

26. In his report of 18 August 1998 (S/1998/775), the Secretary-General informed the Council that while there were excellent prospects for completing the identification process by the end of August 1998, the parties' views on the identification of tribal groupings H41, H61 and J51/52 had remained irreconcilable. Following a meeting held at Geneva between UNHCR and a Moroccan delegation on the formalization of the agency's presence in the Territory, UNHCR was awaiting confirmation from the Moroccan authorities about the undertaking of a joint mission to give effect to the above-mentioned formalization. The Independent Jurist was scheduled to visit the mission area in late August 1998 in order to follow up with both parties on matters concerning presumed political prisoners and detainees, and to consult with the Special Representative on issues pertaining to his mandate.

27. Following an agreement signed in late July 1998 between MINURSO and the Moroccan authorities, which provided guidelines for the handling of weapons, ammunition and explosives by the MINURSO engineering support and demining units, the Pakistani and Swedish engineering units had been able to receive their weapons, ammunition and equipment. However, MINURSO's communication equipment had been held up for two months at Laayoune airport, in contradiction of the privileges and immunities traditionally granted by host countries to United Nations peacekeeping operations. Notwithstanding the conclusion of the military agreement, that delay had been an additional impediment to the start of the actual work of demining by the Swedish engineering unit, whose tasks were envisaged to be completed by early October 1998. With regard to status of forces agreements, the Secretariat had submitted its observations on the comments received by Algeria and Mauritania, while Morocco's response was still pending.

28. The Secretary-General further informed the Council that his Personal Envoy was considering contacts with the parties in early September 1998, following which he would assess the implementability of the settlement plan in its present form. If it were not, he would examine whether there might be adjustments acceptable to the parties, that would significantly improve the chances of implementing it, and failing that he would advise the Secretary-General on possible avenues to be pursued. Such an assessment would influence the Secretary-General's conclusions on the continued viability of MINURSO's mandate and the related

recommendations that he would make to the Council in mid-September 1998, before the expiration of the mission's mandate.

Secretary-General's report of 11 September 1998

29. In his report of 11 September 1998 (S/1998/849), the Secretary-General informed the Council that the identification of all applicants from tribes other than the H41, H61 and J51/52 tribal groupings was drawing to a close, with a total of 147,350 applicants having been interviewed by the Identification Commission, including 60,112 during the first phase of the process from August 1994 to December 1995 and 87,238 since its resumption on 3 December 1997. During September 1998, the Identification Commission would continue the review of identification files with a view to finalizing the provisional voters list.

30. The MINURSO formed military units had deployed the remainder of their personnel and equipment. The engineering unit from Pakistan had continued with construction work for logistical and accommodation purposes, while the demining unit from Sweden was proceeding with the demining of those areas needed for the future deployment of United Nations civilian and military personnel. Demining of sites for the repatriation of refugees eligible to vote and their immediate families, as well as other Saharans resident outside the Territory, had also started. However, demining could not be completed until arrangements for the implementation of the repatriation programme had been finalized between MINURSO and the two parties.

31. UNHCR had continued with its preparatory work for the repatriation of Saharan refugees. A UNHCR mission had visited Laayoune from 26 August to 4 September 1998 to continue discussions with the Special Representative on a number of issues for coordination purposes. However, despite Morocco's decision to formalize the presence of UNHCR and allow it free access in the Territory, UNHCR was still awaiting the designation of technical counterparts to undertake a joint mission to the Territory. The Secretary-General expressed concern about the lack of concrete action to allow UNHCR to carry out its work in the Territory.

32. The Secretary-General further informed the Council that the Independent Jurist for Western Sahara, Mr. Emmanuel Roucounas, had visited the mission area during the last week of August 1998, where he had met with the POLISARIO Coordinator with MINURSO at Tindouf and had received a new list of Saharans alleged to be detained by Morocco for political reasons. He had then met with Moroccan officials at Rabat, and had informed them of the new list, which had been subsequently transmitted to them by the Special Representative. With regard to the list of presumed political prisoners and detainees submitted to Morocco in January 1997, the Moroccan authorities informed the Independent Jurist that they had no further specific information on individual cases. However, the Independent Jurist had been assured that Morocco would cooperate in those matters in accordance with the settlement plan, and in greater detail within the framework of the transitional period.

33. While expressing satisfaction that the identification of over 147,000 applicants had been completed, the Secretary-General expressed concern that the question of the identification of applicants from the three tribal groupings remained outstanding. He welcomed the decision of the Governments of Algeria and Mauritania to sign the status of forces agreement, and expressed hope that the agreement with the Government of Morocco might be concluded promptly after the Secretariat had completed its review of Morocco's reply.

34. The Secretary-General noted that his Personal Envoy was pursuing his contacts with the parties to assess the implementability of the settlement plan in its present form or whether there might be adjustments to it, acceptable to the parties, that would improve the chances of implementing it. He added that if his Personal Envoy concluded that even with such adjustments the plan could not be carried out, he would advise on other courses of action that could be pursued. In order to allow for Mr. Baker's consultations with the two parties, envisaged for late September 1998 or early October 1998, and for an assessment of the situation thereafter, the Secretary-General recommended an extension of the MINURSO mandate until 31 October 1998.

Security Council resolution 1198 (1998)

35. In its resolution 1198 (1998) of 18 September 1998, the Security Council extended MINURSO's mandate until 31 October 1998, and welcomed the engagement of his Personal Envoy with the parties to seek a solution to those issues bearing upon the implementation of the settlement plan. The Council welcomed Morocco's agreement to formalize the UNHCR presence in the Western Sahara, and requested both parties to take concrete action to enable UNHCR to carry out the necessary preparatory work for the repatriation of refugees eligible to vote and their immediate families. It called for prompt conclusion of the status of forces agreements, and requested the Secretary-General to report to it 30 days from the date of the extension of the mandate.